



17 DEC 2007

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In re Application of
SUZUKI, et al.
U.S. Application No.: 10/562,947
PCT No.: PCT/JP04/08989
Int. Filing Date: 25 June 2004
Priority Date: 01 July 2003
Attorney Docket No.: Q92273
For: RUBBER COMPOSITION AND TIRE USING
THE SAME

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition For New Notice of Missing Requirements and Withdrawal of Holding of Abandonment" filed 07 December 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 June 2004, applicant filed international application PCT/JP04/08989 which claimed priority to a previous application filed 01 July 2003. A copy of the international application was transmitted to the United States on 13 January 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 January 2006.

On 30 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and an Information Disclosure Statement.

On 05 April 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 December 2007, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing application that the present application was abandoned as to the National stage in the United States for failure to respond to the Form PCT/DO/EO/905 mailed on 05 April 2006.

On 07 December 2007, applicant filed the present petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

As detailed in Official Gazette notice 1156 OG 53 and the Manual of Patent Examining Procedure 711.03(c), a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

A statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Applicant has satisfied all four items listed above and it is therefore proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 03 December 2007 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision; namely the issuance of a new "Notification of Missing Requirements" (Form PCT/DO/EO/905).



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